IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4167 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

SHANKARBHAI PUNJABHAI MAHERIA 3RD SPECIAL LAND ACQUISITION

Appearance:

MS ROOPAL R PATEL for Petitioner

MR GK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 04/07/2000

ORAL JUDGEMENT

I have heard learned counsel Ms. Roopal Patel appearing on behalf of GSRTC, and Mr. G.K. Rathod, learned counsel for the respondent workman. The respondent was working as a conductor under the

Corporation for long 22 years. On 1-4-1983 while he was on duty a surprise checking was conducted by the Corporation Officer, and it was detected that even though the respondent has collected Rs.7-00 from the passengers, he has not issued tickets. Accordingly a report was submitted to the authority, and on the basis of the report disciplinary proceedings was started. Inquiry was conducted in accordance with the procedure, following the rules of the Corporation. The Inquiry authority found that the charges framed against the respondent were proved. The disciplinary authority after considering the report of the Inquiry Officer, imposed penalty of dismissal from service by order dated 21-6-1994. The respondent workman filed an appeal as well as second appeal and both the appeals were rejected by the authority on 22-11-1994 and 7-6-1994 respectively.

2. Having felt aggrieved by the rejection of appeals, respondent raised an industrial dispute which has been referred to the Labour Court, Ahmedabad being Reference (LCA) No. 1241 of 1998. The Labour Court after hearing the parties, and after going through the papers and documents taken a lenient view considering the fact that this is the first offence committed by the respondent and the money involved is of Rs.7-00 only, and accordingly the Labour Court quashed the order of dismissal and directed the Corporation to reinstate him in service, but without backwages. However the Labour Court modified the penalty imposed of stoppage of two increments with permanent effect.

3. Learned counsel for the petitioner submitted that the respondent is involved in misappropriation of public money, even though the amount may be small. The conduct cannot be encouraged and whenever persons are found to be involved in misappropriation of public money they be dealt with severally. Learned counsel accordingly submitted that the Labour Court committed an error in taking lenient view of reinstating the respondent and withholding of two increments only with cumulative effect. Learned counsel accordingly submitted that the Labour Court should not have interfered with the order of termination. Even if the Labour Court has taken a lenient view considering the fact that the respondent has committed the offence for the first time and reinstated him, in that event also, he should have withhold more increments with cumulative effect.

4. Learned counsel for the respondent workman has submitted that the respondent worked for quite a long time under the Corporation and he is now on the verge of

retirement. Learned counsel also submitted that the offence alleged to have been committed by the respondent involves merely an amount of Rs.7-00 and for that he should not have dismissed by the Corporation. Learned counsel further submitted that, no error has been committed by the Labour Court in taking a sympathetic view having regard to the offence alleged to have been committed by the respondent. Learned counsel for the respondent accordingly submitted that the judgment & award do not require any modification.

5. I have considered submissions of learned counsel of both the parties, and also perused the judgment & award passed by the Labour Court dated 5-11-1999 in reference (LCA) 1241 of 1998. Even though the amount involved is small and the offence committed by the respondent is for the first time, I am of the view that the Labour Court has taken a too lenient view. In the present case atleast withholding of three increments with cumulative effect will meet the ends of justice. Accordingly the award of Labour Court dated 5-11-1999 passed in Reference (LCA) 1241 of 1998 is modified to the extent that, instead of withholding two increments the penalty of withholding three increments with cumulative effect is imposed on the respondent. With the aforesaid modification, this petition is partly allowed. It is however made it clear that the order of reinstatement passed by the Labour Court had not been interfered with by this order. Rule made absolute to the aforesaid extent. I make no order as to costs.

Dt: 4-7-2000 (P.K. Sarkar, J)

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